

SUPERIOR COURT OF JUSTICE

5 B E T W E E N :

ROBERTY TY

Applicant

10

- and -

OTTAWA-CARLETON STANDARD CONDOMINIUM CORPORATION NO. 1106,

15

HAYDEN BAPTISTE, CASSANDRA LU, SHARANDEEP TUMBER,

VALERIE TALLER, MELVIN LEE

Respondents

20

P R O C E E D I N G S A T T R I A L

BEFORE THE HONOURABLE JUSTICE R. SMITH

on April 9, 2026, at Ottawa, Ontario

25

APPEARANCES:

30

R. Ty

Appearing in person

C. Allen

Counsel for the Respondents

D. Messina

Counsel for the Respondents

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W I T N E S S E S

5 NAME PAGE NO.

Legend

[sic] - Indicates preceding word has been reproduced
verbatim and is not a transcription error.

(ph) - Indicates preceding word has been spelled
phonetically.

[Indiscernible] - Indicates an inaudible or impossible to
understand spoken word/phrase.

25 Transcript Ordered: April 9, 2026
Transcript Completed May 9, 2026
Ordering Party Notified: May 9, 2026

THURSDAY, APRIL 9, 2026

5 THE COURT: Okay. Mr. Ty, let's get back to you.
Okay? Mr. Reporter, thank you for short notice
being on call. Okay. So, you have brought an
application.

ROBERT TY: Yes.

10 THE COURT: You want to appoint an administrator or
a....

ROBERT TY: Inspector.

15 THE COURT: Inspector. Okay. So, maybe - I have
read your materials. You were initially on the
board of directors. This is a new condominium, as
I've understood.

ROBERT TY: Yes. Relatively.

20 THE COURT: Relatively new, within a year or so.
So, that the Claridge Homes would've had all the
units and they transfer to them to the actual
owners at some point in time to the owners of the
condominium units. And then you have an election,
presumably.

ROBERT TY: Mhmm. Yes. That occurred.

THE COURT: And you were one of the initial five...

ROBERT TY: Yes.

25 THE COURT: ...directors? And then there was a
conflict. You should be telling me this...

ROBERT TY: Mhmm. Yes. Mhmm.

30 THE COURT: ...I shouldn't be telling it. And then
the other directors resigned. You were the only
director left, so, that - there's no quorum, so you
had to have a new election, and you weren't
elected. And the five people that you've sued here

are - were the elected individuals. So, is your main complaint - let's deal with your complaints: that there's an agreement with another condominium sharing facilities or common elements and that the expenses are inappropriately being charged to 1106. That's your allegation?

ROBERT TY: That's part of my allegations, yes.

THE COURT: Why don't you go ahead and tell me why should - why should an administrator - it's a high bar to appoint - remove control from the elected members of the board.

ROBERT TY: Mhmm. I understand.

THE COURT: You have to have some fairly serious misfeasance occurring.

ROBERT TY: Mhmm. But - so, on Case Centre, I'm currently presenting, I'm wondering if that can be shown on the screen.

D. MESSINA: What page, Mr. Ty?

ROBERT TY: I'm in presentation mode. Are you able to follow?

D. MESSINA: Okay. I can stop sharing my screen and you can share on Zoom if you'd like.

ROBERT TY: Okay. I can do that. It says, "host disabled attendee screen sharing".

THE COURT: Is it easier if I simply go to Caselines? Is that the - you don't have Brian here, so.

ROBERT TY: I think I'm sharing my screen now.

THE COURT: Okay. You're sharing your screen?

ROBERT TY: Yes.

THE COURT: Where are you? Just out of - for my....

ROBERT TY: So, right now, I....

THE COURT: You have a page number in the...

ROBERT TY: On....

THE COURT: ...compendium?

ROBERT TY: So, right now I'm on - let's see, it's A5523.

THE COURT: Okay.

ROBERT TY: So, I can begin my initial oral arguments, Your Honour.

THE COURT: How long do you think it'll be? Just....

ROBERT TY: I believe my initial arguments will be between 50 minutes to an hour.

THE COURT: Okay. Well, let's say you get closer to 30 minutes. It's too long a difference. Let's - let's go point by point. How many points do you have?

ROBERT TY: Many points, Your Honour, because I need to....

THE COURT: Let's go to your primary point. Let's get the big, important one first.

ROBERT TY: Mhmm. All right. Good morning, Your Honour. My name is Robert Ty. I am the self-represented applicant in this matter and the respondents, Ottawa-Carleton Standard Condominium Corporation Number 1106, commonly known as the Claridge Moon Condo, and its five directors are represented counsel from DHA Condo Law. And this is an application, Your Honour, brought under sections 130 and 131 of the *Condominium Act, 1998*. I am seeking appointment of an administrator and/or inspector for my condominium corporation. Your Honour, this case is fundamentally about a

condominium board that's been captured by the developer that built our building, Claridge Homes. But this is not simply a case of a bad board. Evidence - the evidence demonstrates a web of interlocking relationships and conduct involving multiple parties: the developer, the board....

THE COURT: You have to go slowly. I'm taking notes. If you want to refer me to where you're reading from on the screen, as you....

ROBERT TY: Yes.

THE COURT: Do you have a factum or....

ROBERT TY: These are my introductory statements, Your Honour.

THE COURT: Okay.

ROBERT TY: Mhmm. And I will refer to my compendium where I outline key areas of my oral arguments.

THE COURT: Okay.

ROBERT TY: The evidence will demonstrate a web of interlocking relationships and conduct involving multiple parties: the developer, the board, their legal counsel, their former property manager, and their engineering firm. All of which have systematically benefitted the developer at the expense of the condo's unit owners. Over the course of my oral argument, I will demonstrate four things. First, I will provide an overview of the parties and the governing framework that was designed to protect the unit owners, but instead has been exploited. Second, I will detail the specific misconduct and mismanagement of each relevant party, showing how their actions,

individually and collectively, have created a corporation that is financially exposed, operationally dysfunctional, and incapable of governing itself without the oversight of this Court. Third, I will outline the legal test for appointing an administrator and an inspector, drawing on the relevant caselaw. And fourth, I will apply the law to the facts of this case and explain why the extraordinary remedy of court-appointed oversight is not only just and convenient, but absolutely necessary. The evidence supporting this application is set out in detail in my affidavits sworn June 26th and December 15, 2025, and was further confirmed during the cross-examination of the president of the board of the condominium, Mr. Hayden Baptiste (ph) on February 25, 2026. The respondents' have filed responding materials, but those materials, as we will see, only serve to confirm the pattern of conduct I'm bringing before this Court. So, let me begin with the parties.

OCSCC 1106 is a residential condominium corporation created by the registration of its declaration...

THE COURT: Yes. I'm aware of how that works. And I've read your material. So, let's get to the, what you say are the errors or wrongful conduct by someone. Let's say the board is in one.

ROBERT TY: Very well.

THE COURT: Why don't you then go to that and then see what the law is and say why this doesn't meet the test.

ROBERT TY: So, first, I'd like to concentrate on Claridge Homes, which is the original developer.

5 Your Honour, Claridge Homes is the architect of this dysfunction. Their conduct demonstrates a pattern of self-dealing, inadequate disclosure, non-compliance with agreements, and ongoing efforts to maintain control over a corporation that should be independent.

10 THE COURT: Let's deal with the inadequate disclosure - is what, in the condominium documents? Like, when you buy a condominium, you get a disclosure form.

ROBERT TY: Correct.

THE COURT: Okay. Is this what you say - with that - that's not what you're claiming here.

15 ROBERT TY: I'm - I'm - I'm providing the background information regarding my allegations. However, if you'd like me to go directly to the allegations, I can do that.

20 THE COURT: Yes. Why don't you go to what you say they're doing that the condo board has, as you say, is conspiring with Claridge Homes to disadvantage is some way or treat the condominium, 1106...

ROBERT TY: Very well.

25 THE COURT: ...unfairly. I mean, that's the - that's the essence of your claim. Is that right?

ROBERT TY: Yes.

THE COURT: So, what is it? What is that? Where is that - let's put this up on.

30 ROBERT TY: Okay. So, regarding non-compliance with the shared facilities agreement, which would benefit Claridge Homes....

THE COURT: Let's just go with that, this S-F-C agreement, what is that? That's an agreement with

another condominium?

ROBERT TY: Yes.

THE COURT: To share expenses for common - shared common expenses?

ROBERT TY: Yes. So, this, the SFA, which is the Shared Facilities Agreement.

THE COURT: Yes.

ROBERT TY: Was an agreement established between my condominium corporation as well as another commercial enterprise owned by Claridge Homes. And it's known as Claridge Albert.

THE COURT: Claridge.

ROBERT TY: Claridge Albert.

THE COURT: Albert.

ROBERT TY: Mhmm.

THE COURT: So, is this sharing a swimming pool, or is it a park, facilities.

ROBERT TY: It shares a variety of key infrastructure necessary for the operation of this campus or group of buildings. For example, there is a so-called shared hydro vault, which I assume is related to infrastructure related to electricity that, I guess, supplies electricity to both my condominium building as well as a rental building and the commercial components owned by Claridge Albert.

THE COURT: So, a hydro connection or is this a transformer? Those big boxes, sometime - where is it located?

ROBERT TY: It's actually very difficult for me to say, Your Honour, given how unclear the actual shared facilities agreement is and that's part of

the allegations that I'm making in this court application.

THE COURT: Okay. Well, that's what I'm - I want to be clear what it is. What it is that you're saying is - okay, you're sharing a hydro connection, hydro transformer...

ROBERT TY: So, I'll go to...

THE COURT: ...is it something I'm familiar with or have seen them in residential subdivisions, whether - how big is the condo? Is it what, 200 and some people?

ROBERT TY: So, the condominium is a seven - 27-floor building with 266 units.

THE COURT: Okay.

ROBERT TY: One second, I'm just looking for the....

THE COURT: I presume it's near Albert - Albert and Queen, was that the....

ROBERT TY: It's on the corner of Queen and Lyon. Lyon, L-Y-O-N, and Queen Street.

THE COURT: Lyon. Lyon, okay. Okay.

ROBERT TY: So, I'm bringing up on the screen, the so-called, shared facilities list between the condo and Claridge's buildings. And it's actually quite a - it's a list of around 27 units - or 27 elements. It's not really clear from this schedule, actually, what each of these shared facilities are. And then when I made reference to a shared hydro vault, that is number 24, near the bottom of this. Oh, can you - am I - oh, sorry, I'm not sharing the correct screen now.

THE COURT: So, they have to provide for

maintenance of the hydro vault, and you say it should be shared with this other condo.

ROBERT TY: Yes. Let's see....

THE COURT: Is that not happening?

ROBERT TY: I'm going to stop sharing and I'm going to share the other - the other tab. So, here now, I'm sharing the actual list of facilities - the list of shared facilities and I was referring to number 24 on this list, which is labelled, "shared hydro vault".

THE COURT: Okay.

ROBERT TY: So, regarding the shared hydro vault, according to the provisions in the shared facilities agreement, Claridge Albert, or the counterparty to this agreement, is responsible for paying 100 percent of the cost related to repair or replace the shared elements. And the reason why this is 100 percent is because each year, my condominium pays a shared facilities fee to Claridge Albert for the enjoyment or use of the shared facilities. And currently that's the - that's around \$10,000 a year.

THE COURT: So, do you have any expert evidence from a - an engineer or a property manager to say that it should be \$5,000 a year, it should be zero.

ROBERT TY: So, the - so....

THE COURT: Do you have any expert evidence?

ROBERT TY: So, the question is not the actual amount itself, the 10,000 a year that we pay to Claridge Albert. The question is, why is a fees or expenses related to the....

THE COURT: Before you go to that, you - do you

have any expert opinion outlining what's - say, an engineer or a property manager, an experienced property manager. Look, why is this unfair? Do you have an expert opinion?

ROBERT TY: So, at the moment, I do not.

THE COURT: You do not. You have just your opinion.

ROBERT TY: I have my...

THE COURT: That's your...

ROBERT TY: ...opinion based off...

THE COURT: ...opinion because you....

ROBERT TY: ...based off my review of the shared facilities agreement.

THE COURT: Okay. Thank you. So, you - so, it's not the amount you're disputing? What're you disputing then?

ROBERT TY: So, in this case, the condominium corporation and the board itself has approved, for example, in this specific case, a proposal for the inspection and maintenance of the shared hydro vault to be paid by the condominium corporation. But according to the provisions of the shared facilities agreement, this is Claridge Albert's responsibility. So, it's their responsibility to repair and replace the shared hydro vault and to pay for the related expenses to that. And the board was willing to pay this expense, that is legally Claridge's to pay, and for this specific example, it amounted to around \$16,000. Again, this is just one example of where the condo board has agreed to pay for expenses that is not the condo's responsibility to pay. It is the counterparty's responsibility.

THE COURT: I thought you showed me that the - that they were paying a maintenance allowed of 10,000 a year.

ROBERT TY: And that 10,000 a year encompasses all of the shared facilities, not just the shared hydro vault.

THE COURT: 10,000 a year is a pretty small amount. But....

ROBERT TY: Well, this is, Your Honour, I will note that it was the developer themselves who originally created the shared facilities agreement. So, they're the ones who decided that at the beginning, each - each party of the shared - of the SFA should contribute \$10,000....

THE COURT: I'm just trying to get - you say \$10,000 amount for the use of the shared facilities.

ROBERT TY: Yes.

THE COURT: But then you say the board is paying 16,000 for the maintenance of this electricity vault.

ROBERT TY: For this specific case. For this specific - specific instance of examining or, basically, ensuring that the shared hydro vault is fully operational and functioning.

THE COURT: They're paying maintenance costs in addition to the 10,000 per year.

ROBERT TY: They're paying for this specific fee for examination and maintenance, yes.

THE COURT: And you say they shouldn't be paying that?

ROBERT TY: No. This 16,000 is definitely Claridge

Albert's responsibility to pay, if they chose to move forward with this specific proposal to examine the shared vault.

THE COURT: So, you're saying they shouldn't be paying the 16,000 for examination and maintenance?

ROBERT TY: Yes. Because that is Claridge Albert's responsibility.

THE COURT: Where do you say - see that it's Albert's - Claridge Albert's responsibility?

ROBERT TY: All right. So, let me go to....

THE COURT: That's examination and maintenance of the - I thought you were paying \$10,000 a year or is that just....

ROBERT TY: So, I can show you that specific amount. It's in - should be Schedule E, called the approved budget for the first calendar year. And you'll see that there's columns for both the condominium corporation as well as C. Albert. And the totals when you add up all of these items in this table it ends up to being 10,000 for the condominium corporation and 10,000 for C. Albert. So, that's what I was referring to.

THE COURT: The hydro vault is \$500 each.

ROBERT TY: Apparently, from this chart.

THE COURT: Okay. And what's the mistake here?

ROBERT TY: Well, the mistake is that this 16,000 proposal to examine and basically ensure that the shared hydro vault is properly functioning is not the condominium's responsibility because the C. Albert is responsible for the repair and maintenance of the shared facilities and that's - that'll be found earlier in the shared facilities

agreement, which I'll go to now. It takes some time to load. So, it's on this page and I did highlight it at the beginning. I think you'll be - it's a bit blurry at the moment.

5 THE COURT: What page are you on? On the Caselines.

ROBERT TY: AA4269 [sic]. And the first phrase I highlighted up here says, "C. Albert will carry out the operation and maintenance to the acceptable standards at all times". And that's referring to the shared facilities.

10 THE COURT: Why would it only be Albert and not shared between the two condos as you see on the sheet you showed?

ROBERT TY: That's a good question. And the answer is because as I showed in Schedule E, the condominium already pays a \$10,000 annual fee to C. Albert for the use and enjoyment of all of the shared facilities. And if you look at part B on the same page, I highlighted, "the costs for the operation and maintenance for the first calendar year are set forth in the budget attached as Schedule E", which is where the 10,000 amount comes from.

20 THE COURT: Okay. So, I - I'm not sure how it's easy - how many of these do you have to go through?

25 ROBERT TY: I have more examples, specifically related to the shared facilities agreement, and then I have some examples related to the first-year reserve fund study.

30 THE COURT: Is it - is there an answer? Should we deal with this on a case-by-case or do we - I'm going to lose track if I don't hear - what - what

do you say about that? Why hasn't the board - why is the board paying something when they shouldn't be - should be paying zero? I think we'll go back and forth...

ROBERT TY: I....

THE COURT: ...on each one, so....

ROBERT TY: I'm fine with that, Your Honour.

THE COURT: And then I can follow...

ROBERT TY: Yes. No.

THE COURT: ...Otherwise, I will....

ROBERT TY: I'm - I'm perfectly fine with that approach.

THE COURT: ...I will lose - condominium documents which I have some familiarity with, but that's a few years ago, are complicated, lengthy - hugely lengthy and complicated documents.

ROBERT TY: Mhmm. I understand.

C. ALLEN: Yeah. And we're in the granular detail here, so.

THE COURT: Yeah. Well, that's what I see we're going into.

C. ALLEN: We're getting really into the granular detail of the operation of the condominium corporation and I'm sure, Your Honour, can appreciate this is a very large operation. So, we're talking about small, specific issues that Mr. Ty has flagged as concerning. It's difficult for me to respond to this particular point because as I understand what he's saying, the shared facilities agreement specifics that the overall maintenance for everything, in terms of the shared facilities, the budget was \$10,000 for the condominium

corporation in terms of its share...

THE COURT: Right.

5 C. ALLEN: ...for its first year. And as I understand what he's saying, there was a proposal at some point, that the hydro vault would be inspected at a cost of \$16,000 that he thinks the condominium may have assumed responsibility for. I don't know that that is that he's referring to. The proposal. I'm not sure if that's in Mr. Ty's materials that he can maybe....

10 ROBERT TY: It is in my materials, and I can make the reference....

C. ALLEN: If you have the Caselines reference that would be helpful.

15 ROBERT TY: The reference to the actual board meeting, where that was actually discussed, it's....

C. ALLEN: The Caselines reference would be most helpful, Mr. Ty.

20 ROBERT TY: I understand. So, there's a couple of references, one that was made by the former property manager. I'll go to A4851. So, this is one of the board of director meetings and in the bottom part where I highlighted, related to electrical inspection and/or maintenance, it was written that the condo corporation will also need to do vault testing, which is false, and that the vault is the property of Hydro Ottawa, but the corporation must do the maintenance. Which again, according to the reading of the SFA, is also false.

25
30 C. ALLEN: So, Your Honour, as I understand it, we don't have any expert reporting as part of this

5 proceeding, but as I understand it - I mean, these
are effectively two separate buildings. So, you
know, there are two separate electrical
distribution systems. There is a shared vault that
houses electrical equipment for both buildings and
that is the property of Ottawa - Hydro Ottawa.
However, the condominium corporation - and there
are - well, the hydro vault itself is shared, but
10 in terms of the equipment, as I understand it, and
again, I'm not expert, but as I understand it, the
electrical equipment is separate. So, there's some
equipment that serves the condominium corporation
and some equipment that serves the rental building,
which are physically separated buildings and large
15 buildings, so, it'd have to have separate
electrical systems. So, there are going to be costs
incurred by this condominium corporation to manage,
repair, and maintain its own electrical systems.
So, I suspect what's being referenced here in these
20 minutes....

THE COURT: Well, the vault is just the actual
space....

C. ALLEN: It's the - it houses the equipment.
Exactly. And in fact, a lot of the - a lot of the
25 shared facilities that are listed on the schedule
that Mr. Ty showed us a few moments ago, that's
exactly what they are. They're physical spaces that
house equipment. But the - the equipment is - is
separate for each of the structures. And this is
30 one example of that. So - and even just logic, I
think, would dictate that maintenance and repair of
an electrical system for a building of this size

5 would exceed \$10,000 - well 500 or whatever it was that was shown on that budget for the one - one year. It's not realistic to draw the conclusion that that would be the annual repair and maintenance cost for all hydro of this large building.

THE COURT: So, the 16,000 is the inspection and maintenance of the electrical equipment related to this condo?

10 C. ALLEN: That's my understanding, yes.

THE COURT: The \$10,000 is, which is \$500 a month, is what?

15 C. ALLEN: So, the \$500 a month - I mean, my understanding is that that would be for the maintenance of the hydro vault itself, which, as I understand it, there's a charge....

ROBERT TY: Your Honour, I'll clarify that it's per year. That \$500...

THE COURT: \$500 per year?

20 ROBERT TY: ...was - is part of the per year, because the total sum at the bottom...

THE COURT: Okay. It's 10,000...

ROBERT TY: ...is 10,000.

25 THE COURT: \$500 a year to maintain the hydro vault.

C. ALLEN: The vault itself. And so, I - I mean....

THE COURT: What would have to be done? I guess, what, painting or something? Or...

C. ALLEN: I suspect....

30 THE COURT: ...what's it made of?

C. ALLEN: I suspect it's a charge that's - so, my understanding is that the vault itself is only

accessed by Hydro Ottawa workers.

THE COURT: Okay.

C. ALLEN: And so, it would be, maybe, a charge that Ottawa Hydro adds to the account - the accounts for - for this building.

THE COURT: Okay.

C. ALLEN: I don't really know and to be perfectly honest, Your Honour, this was not - there was no cross-examination of the affiants that were put forth by the condominium corporation by Mr. Ty on this point. And what - what he's relying on are minutes of a board meeting where the affiant was present and could have provided evidence as to what specifically this is referring to, but it's difficult for me to pinpoint exactly what's referenced here. I can only, sort of, draw conclusions based on logic in light of what we're being shown here by Mr. Ty.

ROBERT TY: Your Honour, I will note that I did mention this in my affidavit, so, it would've been the responsibility of the respondents' counsel to challenge on me on these items during my own cross-examination. And it appears that counsel for the respondents failed to do so.

THE COURT: Okay. Let's go to your next point, then.

ROBERT TY: Okay. So, another example related to an expense that the condominium corporation should not have paid for, but C. Albert should've paid for due to the shared facilities agreement is related shared garage door costs. So, I'm going to go to Case Centre A4872.

THE COURT: A48...

ROBERT TY: 4872.

THE COURT: 4872.

ROBERT TY: The condo corporation paid 100 percent of multiple invoices for repairs and maintenance of the shared garage door on Albert Street, contrary to the cost-sharing obligations in the shared facilities agreement. Again, based off the reading of the shared facilities agreement, it would be Albert C., or Claridge Albert, which would be responsible for paying these other expenses related to these shared garage door invoices, since the condominium corporation already pays a \$10,000 annual fee to C. Albert for the use and enjoyment of all of the shared facilities, including this garage door. And I highlighted in here the garage door is on Albert Street, meaning that this is the shared garage door where both vehicles that belong to the unit owners or renters in the condominium have to use to get into their parking lot, as well as those who live in Claridge Albert's apartment building have to enter to get to their own parking lot.

THE COURT: Okay. And they have paid how much?

ROBERT TY: So, one....

THE COURT: So, they're paying to repair the door and you say that should be included in your....

ROBERT TY: So-called \$10,000 annual fee.

THE COURT: \$10,000 is for everything?

ROBERT TY: Yes.

THE COURT: And...

ROBERT TY: So, they're many....

THE COURT: ...let's have a look at that again and see what that is.

ROBERT TY: Oh.

THE COURT: Does it say garage door on it somewhere?

ROBERT TY: There was. Let's see. So, that was 4289. Let's see, garage door 500 per year, I suppose, for the condominium corporation itself.

THE COURT: And they have actually paid how much?

ROBERT TY: Let's - let me go back. A4872. And this is not necessarily all of the invoices related to the - the garage door, but only the invoices that I have on hand. So, the first invoice was for, let's see, \$448. The second one, \$737. The third, 322.

There should be another one popping up. Another one for 1,278 and another one for 718 and then there's another one for 390. So, that's already many thousands of dollars. Again, all of these invoices should have been paid by Claridge Albert and not the condominium.

THE COURT: Okay. Well, let's hear what you say, Ms. Allen.

C. ALLEN: Well, there's actually no evidence that these were paid by the condominium corporation.

These are just the invoices that were issued for the purposes of addressing door problems. So, I don't think that these are evidence that there's - there's - well, I mean, to take a step back from all of this, again, we're in the granular, and I don't think that these small invoices are evidence that there's an overall scheme that the condominium corporation is paying invoices that are not

properly paid by the condominium corporation. I also do want to point out that...

THE COURT: Do we know where these are for? Is there one joint door for the two condos....

C. ALLEN: There is. Yes. So, there's....

THE COURT: Parking goes underground, presumably.

C. ALLEN: Correct. Yes. So, there's a - a garage door.

THE COURT: Is there just one garage door or is there multiple garage doors?

C. ALLEN: I believe there's just one that provides access to the parking for the residents of both buildings. Each building has separate levels that are specific for parking for the building, but there's just the one door.

THE COURT: So, this estimate is either wrong, at \$500...

C. ALLEN: Yeah.

THE COURT: ...or it's a defective garage door.

C. ALLEN: So, what I was going to - so, first and foremost, a new condominium corporation often faces a number of issues with the building within the first few years because, of course, not everything is going to be perfect. So, whether or not these were paid as a part of the shared facilities cost or - or Claridge may have been asked to pay these directly because that's often what happens with these kinds of small deficiencies that crop up in the first couple of years following turnover of the condominium corporation. So, it's - there's no evidence that....

THE COURT: So, you're saying that you don't know

who paid them.

C. ALLEN: We don't know who paid these invoices,
no. We don't know who paid these invoices.

ROBERT TY: Your Honour, I....

THE COURT: Okay. Do you have evidence of who paid
them?

ROBERT TY: I will note that in all of these
invoices, they're invoiced to Sentinel Management
and Sentinel Management was the former condo
property management of the condo corporation. And
Sentinel Management does - was not the manager of
any of Claridge's buildings, like the Claridge Sky,
which is party to the shared facilities agreement.

THE COURT: Sorry, Sentinel was only for the 1106?

ROBERT TY: Sentinel Management was the condo
property manager for the condominium only.

THE COURT: Not for the adjoining...

ROBERT TY: Yes. Correct.

THE COURT: ...rental property.

ROBERT TY: Mmhmm.

THE COURT: So, do you have evidence who paid the
bills?

ROBERT TY: Well, based on this and based off the
annual budgets, presumably, it would be the
condominium and with further investigation, we
could definitely identify the answer to this. In
fact, this would be an excellent avenue if an
inspector were appointed to our condominium
corporation to actually identify the exact answer
to the question you're answering [sic].

THE COURT: It's expensive if you have an inspector
or a receiver. They charge for staff. It's a very

expensive option for you and the condo.

ROBERT TY: I understand, Your Honour, but again, this is just one example of the many examples that I've - I have shared and will share with this Court today regarding this exploitation of the unit owners of my condo at the benefit of Claridge Homes.

THE COURT: Well, you don't know how they were paid. We don't know if they were divided or we don't know if Claridge paid the whole amount or if the 1106 paid the whole amount.

ROBERT TY: Well, if it was invoiced to Sentinel Management, I don't see why Claridge Homes would've wanted to foot the bill. And in the first place, these invoices should not even have been invoiced to our condominium corporation in the first place. They should have been invoiced to whatever property management Claridge Albert has for their own apartment building and commercial complex.

THE COURT: Okay. Well, that's something that you'd need evidence of, as to who paid these invoices. You say it should've been Claridge Albert.

ROBERT TY: Mhmm.

THE COURT: We don't know who paid them.

ROBERT TY: Well, presumably, it was paid by condominium corporation because it was invoiced to the property manager that manages our condo.

THE COURT: But are there any cheques? No cheques, no accounting statement. That's - that would be a good question for, well, for the board. Did you pay this, these bills? Shouldn't they have been sent to Claridge Albert? Okay. So, we don't know who paid

the bills. Okay. Well, let's go to the next - next one.

ROBERT TY: Okay. So, another point related to the shared facilities, and again, related to the garage area. I'll go to Case Centre A4869.

THE COURT: Just so we're clear, it's not going to be every bill...

ROBERT TY: No.

THE COURT: ...it gets in error. It gets allocated to one or the other. This should be corrected, I agree with you, if it's paid by the wrong party then it should be - there's an agreement, it should be paid by whoever is responsible.

ROBERT TY: Mhmm.

THE COURT: But one small error does not going to put an inspector and get - presumably the board has - has hired a property manager.

ROBERT TY: Mhmm.

THE COURT: For the condo.

ROBERT TY: That's correct.

THE COURT: And that property manager should be receiving somebody's water tap leaks and there's damages, there's always going to be - somebody has to fix it. And who gets - so, who the invoice is received and cheques paid and is it allocated to common expense, or where did the leak come from. This is - well, I shouldn't - well, it is more common than you might imagine. But, so, that property manager should be able to answer your question.

ROBERT TY: I'll note that the property manager is no longer....

5 THE COURT: New property manager would have access to the books and say, okay, what happened with the door repairs. That's one example. Did you pay for these - all these invoices when it should've been charged to Claridge Albert.

10 ROBERT TY: What I will note is that when I included the statement and the exhibits in my affidavits, the respondents did not actually challenge this - that - this point at the time. In other words, they did not respond by saying, for example, it was actually Claridge Albert who ended up paying for these invoices. So, they didn't provide that evidence. But I understand your statement.

15 THE COURT: Well, neither of you have provided me with...

ROBERT TY: I understand.

THE COURT: ...that evidence.

ROBERT TY: I understand.

20 THE COURT: So, should then - you know, it seems to me the property manager should have records of maintenance and who paid and who should've paid, and it would be a fair question to ask the board.

ROBERT TY: Mmhmm.

25 THE COURT: And clear that with you. Who's in charge of maintenance? Who pays - you know, the - I don't know, if you could deal directly with the property manager, but probably to the board chairs. Say, look, what happened, who paid for these bills?

30 ROBERT TY: Mmhmm.

C. ALLEN: Your Honour, both property managers current and old, provided affidavits.

THE COURT: Okay.

C. ALLEN: On behalf of the condominium corporation...

THE COURT: Right.

C. ALLEN: ...on this application, so, they could've been subject to cross-examination, but Mr. Ty chose not to examine them.

THE COURT: Okay. Well, there's the information that could be, you know, simply a request. It should be a request. If it's an error, it should be corrected. If not - anyway, you're asking me to decide something if you - you don't know the answer and the condo, without the property manager, presumably, they have all the financial repair bills, who paid, they must get money from somewhere. They don't pay from their own pocket, I assume, I don't know what the arrangement is. Is there a treasurer? Do they send their bills to the - and they'd have to divide them between common expenses and there'll be damages to individual parties - properties, and so, it's not the simplest thing. Not for me to figure out, let's put it that way. Someone has to do this for every condominium. So, let's go onto the - is this the big ones?

ROBERT TY: No....

THE COURT: What're your big ones? Go to the big, big - you know, you're alleging a conspiracy that they're charging your condo a whole bunch of things that are really, should've been Claridge Albert.

ROBERT TY: Mhmm.

THE COURT: And therefore, you're saying that's unfair.

ROBERT TY: Right.

THE COURT: I agree with you, if they are doing that, it would be funny for them to do it, because they're condo owners in your building. Why would they want to pay for things that should be paid for by Claridge Albert?

ROBERT TY: Mhmm. I understand.

THE COURT: Wouldn't make sense, does it?

ROBERT TY: Well, it depends, it's - it's possible that it could be a lot more complicated than even what the surface may appear, but I won't get to that.

THE COURT: Well, we have to do deal with - I deal with evidence and facts.

ROBERT TY: Mhmm.

THE COURT: So.

ROBERT TY: I understand. So, if you want....

THE COURT: Next - next big one.

ROBERT TY: All right. So - so, one of the biggest reasons why I started this Court application was based off of the circumstances related to the first-year reserve fund study. So, first, I'll go to Case Centre....

THE COURT: Okay.

ROBERT TY: ...4685.

THE COURT: This is the percentage that has to be on a reserve account. You have to take a certain amount of money from every - every common expense allocated. So, for future repairs...

ROBERT TY: Yes, yes.

THE COURT: Usually there's an accountant that would give you what amount is required based on, I

don't know, looking forward. So, is there an accountant that does a study and says - provides the board with, okay, here's how much you have to charge each condo owner?

5 ROBERT TY: Well, there was an engineering firm hired by the condominium corporation, Keller Engineering. And that - and it was Keller Engineering who conducted the first-year reserve fund study. And it was based off of the results from their first-year reserve fund study where I found significant errors and issues where many of the elements or costs that they allocated to the condo corporation were incorrect based off my understanding of the shared facilities. All of those expenses should have been allocated to Claridge Albert. So, as an example, I'll go 4-6....

10 THE COURT: It seems the main problem here is the shared facilities agreement.

15 ROBERT TY: That is the primary reason why I raised this court application and because it's the shared facilities, which is, basically, an agreement or contract that binds our condo corporation with the properties owned by Claridge Albert and the ability of Claridge Albert and Claridge Homes, the owners of Claridge Albert, to exploit the condo for their own financial gain, by making us pay for unfair share of those costs. That is the main reason why I have brought forth this application.

20 THE COURT: Okay. So, let's - Keller Engineering, I didn't - maybe we should look at his report. But he - he calculated how much? What the anticipated roof repair, I don't know, air conditioning systems,

25

30

whatever common elements...

ROBERT TY: So, I'll give a very clear example here.

THE COURT: Sure.

5 ROBERT: Of something that was grossly misallocated. I highlighted here an element called a natural gas fuel generator, so something related to back up electricity generation, which I believe is part of the shared facilities between our condo and Claridge Albert's buildings. This particular
10 piece of equipment is located not in our condominium, but in their building, the Claridge Sky apartment building and all of its repair or replacement cost of \$560,000 were allocated to our
15 condominium and not to Claridge Albert. So, this is just one example of a shared facility that's....

THE COURT: Well, that's - is that correct? I mean, I'll go over to Ms. Allen. Are we looking for a
20 generator - a back up generator if you lose power by storm, whatever, windstorm.

C. ALLEN: Yes. I'm just looking at the shared facilities agreement to see if it's on the list.

ROBERT TY: Well, first of all, it's in a
25 completely different building, so why wouldn't it be a shared facility?

THE COURT: Well, there might be one in your building as well. Is there - it would be odd to put it in the other building.

C. ALLEN: I also don't know - can - Mr. Ty, can
30 you confirm which document we're looking at here?

ROBERT TY: This is the first-year reserve fund study. And....

C. ALLEN: What's the date of it?

ROBERT TY: It says here, May 7th, 2025.

C. ALLEN: Thank you. So, I don't know that I'm going to be able to answer the other questions...

THE COURT: But the - but....

C. ALLEN: ...because I don't know...

THE COURT: Well.

C. ALLEN: ...what we're looking here and I'm not really sure if that's half the cost. Like, the shared facilities agreement contemplates cost-sharing of 50-50 between the two parties on what is defined as the shared elements. I'm not sure that this is shared and I'm not sure that that cost represents 50 percent or 100 percent of the cost of replacement of that generator. But regardless, this money, it's important to note that with respect to the reserve fund study, this isn't telling us what money is being paid by the condominium to Claridge Sky or Claridge. This is going in the condominium corporation's reserve fund, so it has the money available if and when these expenses come up and the condo is billed by Claridge for whatever the cost is. Replacement of the generator. So, insofar as the reserve fund analyst made a mistake and included 100 percent of the cost of replacement of this generator in the reserve fund plan, that just means the condominium is overfunded. The condominium - because it's an asset of the condominium. It doesn't automatically go to Claridge.

THE COURT: Doesn't go to Claridge...

C. ALLEN: No.

THE COURT: ...exactly. So - so your fund....

C. ALLEN: Yes.

THE COURT: But this would be another good question. Wouldn't you want to put these questions - send it to Mr. Keller's at Keller....

ROBERT TY: I did precisely that, Your Honour. And I included exhibits where I received an email response from Keller Engineering, refusing to answer my questions and in fact, refusing to deal with me specifically. They stated in their email response that they would only deal with the board or the agent of the board.

THE COURT: Okay. Well, then, send it your building inspector or to the board. Be a fair question to say, okay, you've allocated 500,000 for this generator, it should be shared 50-50.

ROBERT TY: I cc-ed my emails, all - most of these emails with the condo management, so they were aware of it. And they refused to answer these questions. But in fact, when I - during cross-examination, where I cross-examined the president of the condominium corporation regarding the cost related to these misallocated first-year reserve fund cost estimate, Mr. Baptiste admitted that these - these misallocations would have a significant impact on the condo unit owners' contributions. But after that, he never explained why this error was left to remain there in the first place because the condominium corporation also approved this first-year reserve fund study and approved a schedule of common expense reserve fund increases, so annual increases to the cost of,

say....

THE COURT: Okay. But you'd have to have an engineering person say this is an error. Okay? I - I'm looking at it. You say that that's too much or it should be 50 percent paid by the other - are there two generators? Is there one for the one building, one for the other building? It's odd that they would be in the generator room - Claridge Sky, what's that?

ROBERT TY: That's the apartment building that is owned by Claridge Albert.

THE COURT: Claridge Albert....

ROBERT TY: So, the counterparty to the SFA.

THE COURT: ...is Claridge Sky.

C. ALLEN: Yes. I mean, this - this sort of relates back to the same comments I had about the electrical....

THE COURT: Vault.

C. ALLEN: Yes. So, the - there are problems with the shared facilities agreement and in particular, with respect to the description of what is shared. The description, which Mr. Ty got us to earlier, the schedule to the shared facilities agreement, lists a number of physical spaces, but the agreement does not specify what the equipment within those physical spaces is intended to be shared, if any. So, because of that - so, just to provide some additional context, in order for the - to address the problems with the shared facilities agreement, the condominium corporation has commenced an application under the *Condominium Act*, against the declarant, to challenge the provisions

5 of the shared facilities agreement to address a lot
of the uncertainty and lack of clarity with respect
to what should be shared. And so, that's ongoing.
That's subject to negotiation among the parties,
the condominium corporation and Claridge. And the
hope, obviously, is that at the end, a new
agreement with more clarity will be generated and
the parties can go about, you know, sharing the
space the way it was intended to be shared in a
10 harmonious way. But in the meantime, because
there's question as to what equipment is to be
shared, the condominium's reserve fund analyst took
a conservative approach in their planning as we can
see here. So, I don't, again, I'm not sure if
15 there's one generator in this room, if there's two
generators, if there's other generators, and it may
be that this is a shared generator. I'm not sure. I
can't answer that question. But the reserve fund
analyst allocated costs to this generator so that
20 the condominium corporation would have the
necessary funds....

THE COURT: Money to replace it...

C. ALLEN: Exactly.

THE COURT: ...in 10 years, 15 years.

25 C. ALLEN: If it turns out it's all the condominium
corporation's, they're going to have to replace it
and they're going to need the money for that. So,
that's why the reserve fund analyst took this
approach. Once there's clarity on what specifically
30 is shared, this can be - this will be adjusted in
order to reflect that. But this condominium is in
the very early days of its existence. There are

inevitably problems that come up in the documentation relating to the condominium, in operating of the condominium, and Mr. Ty is trying to look at tiny little details and point to these as though there's this huge operational issue when there's not. These are very common issues that condominiums face when they're first created. And Mr. Ty is not allowing the condominium the normal time and the normal course to sort these out. Which, inevitably, they will be. They just need time for that.

THE COURT: Okay. But that's a good question for the board.

C. ALLEN: Yeah. Yes.

THE COURT: Is this - is this overcharging us for the reserve fund? The other things on there, I'm sure there's a whole range of....

C. ALLEN: There are. Yes.

THE COURT: ...things, common expenses and you have to deal - what was it, for ten year or whatever number of years.

C. ALLEN: The reserve fund, the - the - the plan is good for three years, so they have...

THE COURT: Three years.

C: ALLEN: ...this plan done every three years.

THE COURT: Every three years they have to review it.

C. ALLEN: Yes, yes. And the numbers have to be adjusted and then if....

THE COURT: And where is the number for the roof, for example? 50 percent. Okay. There we got 110 - no, 50. Second floor terrace finishes - oh, you got

50...

C. ALLEN: These are allocations....

THE COURT: ...So, these seem to be shared equally.

ROBERT TY: So....

C. ALEEN: Yes.

THE COURT: This one's sharing....

ROBERT TY: Your Honour, this is actually another issue of one of the huge errors of this reserve fund study. Because according to Keller Engineering, they claim that the current agreement, where I highlighted here, does not clearly identify all shared elements between the parties. The following is our interpretation of the agreement. And they've only included six components where they claim are all of the shared facilities between these two SFA parties. And if we recall, Your Honour...

THE COURT: Fifty-fifty is what they've - he's done. He or she, I'm not sure, whoever.

ROBERT TY: And if you recall, Your Honour, I showed a list of 27 shared facilities, so that's in A4289, where Schedule C [sic] of the actual shared facilities agreement contains 27 elements. So, of course, the question is, why does Keller Engineering's report only state six shared facilities elements when we have all of these other additional ones in the actual shared facilities agreement.

THE COURT: Well, that's a good question for Mr. Keller...

C. ALLEN: Yeah. Or even the board.

THE COURT: ...Maybe the board, to get answer from

the....

C. ALLEN: Exactly.

THE COURT: Why has he only put six because then if
- it would be way underestimated because if there's
another - or there, does he put all the - are these
things appearing as well in his report?

C. ALLEN: So, these are physical....

THE COURT: So, you allocate these....

C. ALLEN: These are physical spaces. The reason
they're not in the reserve fund report, and I....

THE COURT: Like elevators for example. Let's take
elevators.

ROBERT TY: My understanding is that elevators are
not part of the shared facilities.

C. ALLEN: Yes. They're....

THE COURT: Not shared. Okay. They're individual.
Okay. Well, what else is shared? What are the big -
what's the big - generators, is a fairly big - it's
500,000, that's a big number.

C. ALLEN: Yes.

THE COURT: Seems to me you might need two
generators.

C. ALLEN: Yes. I would think so.

THE COURT: And I have a generator at my cottage to
cover electricity.

C. ALLEN: Yes.

THE COURT: Who knows how long it will last.

C. ALLEN: These are very tall buildings, so, I
imagine that the generators would be sizeable....

THE COURT: Funny it would be located in the other
building...

C. ALLEN: Yes.

THE COURT: ...because it would be expected to be connected to the electrical supply for the 1106.

C. ALLEN: Well, it's an interesting - the way this condominium, this development, is separated, it's not just on the vertical, it's also on the horizontal underneath. So, when, you know, we're talking about the garage before...

THE COURT: Right.

C. ALLEN: ...people drive into the garage. The first two levels of the garage are actually part of the Claridge Albert building...

THE COURT: Okay.

C. ALLEN: ...and then the lower parts are the condominium corporation that we're dealing with here. So, a lot of these rooms are, like, mechanical rooms and things like that that are located on that...

THE COURT: One of these floors.

C. ALLEN: ...the horizontal - yes - plane. And so, they're located below our condominium.

THE COURT: So, this generator could be - and where do they say they're located? Where does Keller say it's located? I thought it was on the 15th floor.

ROBERT TY: It was in the Claridge Sky.

THE COURT: Pardon?

ROBERT TY: They said it was in the Claridge Sky building, the generator, on their 10th....

THE COURT: So, it could be in the basement or.

C. ALLEN: I believe they're all located underneath....

THE COURT: Underground.

C. ALLEN: Yes. Exactly.

THE COURT: Which would make sense.

ROBERT TY: Well, it said it was not in the basement. I'll go back....

THE COURT: So, it was, like, the 15th floor or something like that?

ROBERT TY: A4685.

C. ALLEN: Oh, the - right...

THE COURT: Is that right?

C. ALLEN: ...the 10th floor. Yes.

THE COURT: It can't be - odd.

C. ALLEN: ...actually, the former property manager is here, I'm sure...

ROBERT TY: Claridge Sky, 10th floor.

C. ALLEN: ...he's itching to answer that question.

THE COURT: Well, maybe - maybe, you know, if he's the property manager, where is it?

EVAN LLOYD: Former.

THE COURT: Pardon?

EVAN LLOYD: Former property manager.

THE COURT: Yes. Okay. Well, you know the building.

EVAN LLOYD: As I recall, it's on the 10th floor of the Sky building.

THE COURT: Okay. And is it just one elevator [sic] or are there two?

EVAN LLOYD: Sorry, sir, generator?

C. ALLEN: Elevator.

THE COURT: Sorry, sorry, okay, well, elevators are individual, they're not shared. This generator.

We're dealing with a generator.

EVAN LLOYD: That's correct. My recollection is there are two generators on the 10th floor of the Sky building. One is for condo. One is for Sky

commercial.

THE COURT: Okay.

EVAN LLOYD: I agree with your earlier comments as well, Your Honour, that the design choice is interesting. I don't know - and I don't know why they're in the Sky building.

THE COURT: Okay. So, there's two elevators [sic]. So, they're - maybe Keller's right. He's said, okay, this elevator - elevator. This generator is 500,000. That's an expensive generator, but it's a big building, so.

ROBERT TY: Again, when I pointed out in the original shared facilities agreement that 100 percent of the repair and replacement cost were the responsibility of C. Albert.

THE COURT: Not for the generators.

ROBERT TY: Yes. Even for the generators. So, if I go back....

THE COURT: Why would he pay for the generator for the condo building?

ROBERT TY: No, no, no. The generators are shared facilities.

THE COURT: Okay. Well, let's look at that.

ROBERT TY: What is it, A4289. Yes. So, the - it says here, the shared generator and it says that the - C. Albert is the owner of this shared generator.

C. ALLEN: That's not a correct interpretation of this chart. This just shows whose property it's located on, but who has the benefit of an easement over the particular location. These are - that they're shared, and the cost-sharing for the share

is set out in the agreement at 50-50. So, this just defines the shared - what is shared. It doesn't define - or it doesn't specify who is responsible for the particular expense. The agreement says that and that's where the 50-50 comes in.

THE COURT: So, let's go back to - what's your point. You're saying Keller made a mistake and allocated 100 percent and not 50 percent for the generator. So, he overcharged for the reserve fund.

ROBERT TY: So, basically all of those shared facilities, 100 percent of those fees should be allocated to C. Albert and not to us. So, I'll go to A4964.

COURT REPORTER: Court's indulgence, Your Honour, before we continue, can I get the name of the former property owner, please, for the record?

THE COURT: The name of the property owner - Centennial [sic].

C. ALLEN: Yes. Sentinel Management. It's Evan Lloyd.

COURT REPORTER: And if you could spell me the name, please.

C. ALLEN: E-V-A-N. He's one of the affiants. L-L-O-Y-D. He's not a party, sorry.

COURT REPORTER: Thank you.

ROBERT TY: So, on this page, this is my own estimate of re-calculations if the actual cost related to shared - these shared facilities were properly allocated to C. Albert and not to our condo. So, if I take the sum of what Keller had originally estimated and I compare it to what I would estimate, that's a difference of almost

5 \$3,000,000 in liabilities. And these are not just one-time liabilities. A lot of these shared facilities have to have - be replaced, repaired at certain intervals, maybe 5 years, 10 years, 30 years, but this is just a snapshot of where the issues that I found with Keller Engineering's report that - where they inaccurately misallocated all of these expenditures to the condo and not to C. Albert.

10 THE COURT: You really need another engineer or another one person to say, okay, these are over-estimated or under-estimated, whichever way they are. This is for the - this is shared - this is not the reserve fund.

15 ROBERT TY: Apparently, these shared facility costs have been estimated for the purpose of calculating the condo's reserve fund contributions in the current future years.

20 THE COURT: So, this is the base - or this would be in a budget each year.

25 ROBERT TY: Not - not each year. Again, different shared facilities would have a different repair and replacement cost. And I would argue, Your Honour, that none of these shared facility costs should even be present in the condo's reserve fund study, precisely for the fact that these are shared facilities with C. Albert and that they are responsible for the repair and maintenance for the shared facilities.

30 THE COURT: Are they - if shared facilities, isn't that 50-50?

 ROBERT TY: Again, Your Honour, according to the

SFA agreement, the condo already pays \$10,000 a year to C. Albert.

THE COURT: That can't be right.

ROBERT TY: But that's what - that's what the current SFA states, Your Honour. And it was Claridge Homes....

THE COURT: That can't be right. It doesn't make sense.

ROBERT TY: But that's - that's exactly how the SFA is written, Your Honour.

C. ALLEN: No. The \$10,000 is contained in an estimated first-year budget. That's attached to this...

THE COURT: Well.

C. ALLEN: ...shared facilities agreement. It's page A4269 that sets out the cost-sharing. It's article 3 of the agreement that confirms each party shall contribute to any cost related to the operation and maintenance in the following proportions: condominium corporation 50 percent, C. Albert 50 percent. So, what you're referring to, the \$10,000 is an estimate that was developed by the declarant before the condominium was even operational. So, it was just a pure estimate. The actual cost could only be known once the buildings were up and running. And then those costs are shared 50-50.

THE COURT: Right.

ROBERT TY: Your Honour....

THE COURT: You don't disagree with that.

ROBERT TY: The 10,000 a year, I do not disagree with. But I do not agree with the notion that....

THE COURT: That you share 50 percent of the costs of the shared facilities?

ROBERT TY: No, no, no, no, no. No, no, no, I don't actually agree with that, Your Honour.

THE COURT: You don't agree with 50 percent?

ROBERT TY: No. Because in my - one of the reasons why the condo corporation had launched their court application against Claridge Homes was because even the 50-50 percent allocation is also oppressive against the condominium corporation. And I can go to the exact point in the SFA which shows that.

THE COURT: Before we leave that, so, you're saying that the agreement shouldn't be 50-50.

ROBERT TY: No, no. Even the 50-50 is oppressive against the condominium.

THE COURT: Is the other building bigger or there's more heating, more common spaces, something like that?

ROBERT TY: Let's see. I'll go to A4266. So, here it describes both the Albert structure - C. Albert and the condominium structure. So, the Albert structure means the five levels of underground parking, one level floor of retail space, two residential rental towers, one being 27 storeys and the other 9 storeys based on the Albert plans. And the condominium....

THE COURT: So, it's bigger.

ROBERT TY: Yes.

THE COURT: Bigger than the condo.

ROBERT TY: Yes.

THE COURT: So, it should take more than 50 percent, it should be, maybe 70-30 or something.

ROBERT TY: They should definitely assume a higher percentage of the common shared facilities cost.

THE COURT: What about that?

C. ALLEN: Well, that's part of the reason why the condominium corporation has challenged...

THE COURT: The shared....

C. ALLEN: ...the shared facilities agreement. They're going through the process that the *Condominium Act* has designated as the process there to challenge unfair shared facilities agreements.

THE COURT: Okay.

ROBERT TY: And - and Your Honour, that's also one of the reasons why I brought this court application forward. Because it was in May of 2025 for the condo corporation initiated that court application against Claridge Homes. And today it's almost one year after that initial court application and nothing has been done since then. In fact, the condo corporation has not even requested a hearing related to that court application.

THE COURT: Well, are they negotiating back and forth? They're probably negotiating back and forth. Say, you got three floors and - five floors of parking, three of them are for one commercial, two - two condos, and only one condo. So...

ROBERT TY: Your Honour....

THE COURT: ...you got the square footage, probably, would be something to look at, I'd say. Some basis is subjective.

ROBERT TY: Your Honour, if they haven't actually applied for a hearing for their court application...

THE COURT: Well, you know, that - that - getting a hearing takes a long time.

ROBERT TY: Which, of course, which then just supports my argument that they should have requested a hearing at the very beginning.

THE COURT: Well, no. No, no. They should settle it on reserve, speak to an engineering - another - well, you don't like Keller Engineering, but probably an engineer might be who'd you go to - does condominium - how you allocate sharing of expenses for shared facilities. Probably. Well, Mr. Keller - you don't like Mr. Keller or whoever it is in his firm or - there used to be a Mr. Keller, I think.

C. ALLEN: Yes. There was Heinz Keller.

THE COURT: Is he - or is he still practicing?

C. ALLEN: No. He's retired. He's still around, but he's retired now.

THE COURT: So, it would be his firm or other.

C. ALLEN: Yes. It's his firm. He has a number of - there's a number of owners now. There's five or six of them.

THE COURT: Okay. Well, I think the board needs to get a - if this isn't correct, what is correct? I can't figure that out for you, I mean.

C. ALLEN: No. And that's what the condominium is doing. It's engaging in a process of trying to, first of all, figure out what is shared. What is actually shared.

THE COURT: Right.

C. ALLEN: And what is the shared - what is the appropriate sharing. But that is - I mean, it -

it's taking time, admittedly, but....

THE COURT: Probably need a - need an engineer to do that.

C. ALLEN: And there is an engineer involved in that process.

THE COURT: The property manager's unlikely to be able to do it.

C. ALLEN: Yes.

THE COURT: I never know. Never underestimate a property manager.

C. ALLEN: Well, I - yes. Exactly. They often know more than anyone else. But....

THE COURT: Well, it would likely be by square footage. Wouldn't you have to have plans and go over the plans and some - heat might be, I don't know, basements might be different than upper floors.

C. ALLEN: Yes.

THE COURT: Upper floors, retail space.

C. ALLEN: Yes. And it would be use as well....

THE COURT: I don't know. They draw more electricity, or whatever the services they draw should be proportionate to the services that are used. There's more lighting, then maybe more electricity. I don't know, you know, you'd have to go through point by point and say, okay, who uses the most here based on. Okay. But that's not my job. Much as it's interesting.

C. ALLEN: Yes.

THE COURT: I mean I kind of like engineering stuff, but that's - that's neither here nor there. So, next point? So, yes, you - so, I think they're

5 agreeing with you. They agree that this should be clarified, and it is being clarified. And that's a good question on this - this generator because that's a \$550,000 item. There's two generators, is one for - you know, that's a - again, that's probably an engineering question for Mr. Keller. Is - are there two? I guess there's two. Is one for - are they back up for - how is the electrical system connected? The lights go off some area, who - which of the generators go on? Or do both go on? Who pays for the use of gas or propane or natural gas or who fuels the generator. Expenses go on and on. So, next - next point. So, you have some legitimate questions that need to be answered by the building property manager, engineer, board, and....

15 ROBERT TY: Yes. And....

THE COURT: So, I can't answer them, and neither can counsel. So, that would be - those are fair questions.

20 ROBERT TY: I'll note that the other reason why I requested either administrator or inspector was also related to any treatment related to the....

25 THE COURT: That's a - that's a very difficult thing to get, I'll tell you that. Absent deliberate misfeasance or - you know, we had a fairly famous case involving a condo that went to Court of Appeal. The gentleman owned 50 percent, maybe a bit more on the lower-level condos and then took control of the actual - he was at the basement storage. Anyway, counsel is probably aware of who - 30 this case. But he didn't want to pay for the - the roof was leaking, it had to be replaced and he had

5 - couldn't pass a resolution to do the roof repairs
for a couple hundred thousand. So, everyone's condo
was being destroyed by water. Okay. Then, what
happens? Go to court and they appoint someone who
hires a roof repair person and an engineering firm,
and they fix the roof because you can't leave a
condo where someone gets a block because he had the
basement units - block the - it's hard to believe,
10 but it occurred. So, that's the kind of thing when
you get a - not an inspector, but you get an
administrator or a receiver, I think, was appointed
to manage the condo. So, that's a serious issue.
You understand, Mr. Ty?

15 ROBERT TY: I understand.

THE COURT: That's not what I'm seeing here. I'm
seeing minor issues, which I - I'm not disagreeing
with your points, that they should be answered and
should be responded to by, presumably, the Keller
Engineering firm. And there should be the
20 allocation of shared expenses in a manner that's
satisfactory. The board must want this as well.
Your interests are the same. You don't want to be
paying 50 percent when you should only be paying 30
percent. I don't know.

25 ROBERT TY: So, I'm just looking for.

THE COURT: This is an expensive way to go about
getting this done, by the way. I'll come to that at
the end of this process.

30 ROBERT TY: Yes. But, Your Honour, based off what
I've seen and the evidence I gathered, I believe
that this was really one of the only ways to
actually get action done, given the non-response

5 from the board of directors on these issues as well as the related parties. So, the other item that I was referring to is related to any treatment related to the first, second, and seven-year Tarion common element warranties that may arise in expenses that the original developer, a.k.a. Claridge Homes, would have to reimburse related to any deficiencies found in these one-, two-, and seven-year common element warranties.

10 THE COURT: Right.

ROBERT TY: And what - and one of the....

THE COURT: But that continues to exist. Those warranties exist. They're not lost.

ROBERT TY: Mhmm.

15 THE COURT: If there are warranty items.

ROBERT TY: And it's the responsibility of the condo corporation to ensure that they - make sure that Claridge Homes is held accountable for as much of the deficiencies as possible. Because otherwise we could end up in a situation where the condo unit owners end up paying for expenses that should have been handled through deficiencies paid by Claridge Homes.

20 THE COURT: If - if there are - that's - yes, I agree with you. I don't think counsel disagrees with that. That there's - the warranty should be enforced and if there are defective, whatever, concrete things that are covered by the warranty - but are they abandoning the warranties? Why would they abandon the warranties? That would be ridiculous. It would be negligence. Then you'd have a negligence action. I don't know where that fits

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30

in the condominium. Dangerous if they do that.

ROBERT TY: Mhmm.

THE COURT: Are there any condo - any warranties that you've identified?

ROBERT TY: I will note I did receive a copy of the first-year....

THE COURT: No. I'm asking - are there are warranties that are being ignored or repairs that aren't done that should be done under warranty?

ROBERT TY: At the moment, I don't have that because I did request, from the condo corporation, latest copies of the, what is it, the Tarion, the PATS, or the Performance Audit Tracking Summary. So, this document would list all of the performance deficiencies identified, as well as the status of those items. But the condominium corporation, a) insists on charging me a fee to access those records, and b) wants - if they were to give me those records, would only provide me with the redacted version of those PATS. So, I did actually submit a complaint previously with the Condo Authority Tribunal related to the fees that they were charged [sic] regarding these items. And the CAT said that they could redact these documents and provide them at a fee. And I was - and apparently the original fee that they wanted to charge me was overestimated and a more correct fee was applied. And the....

THE COURT: So - so, you've now got....

ROBERT TY: Not yet. What....

THE COURT: But they're - you're in the process of getting them?

5 ROBERT TY: I'm - right now, I'm - I'm - I've paid for the fee to obtain the second-year performance audit so that I can start my own investigation to ensure what actually has been done or what's

10 deficiencies have to be addressed, at least from the second-year performance audit. And I'll probably also look into obtaining the first-year and second-year [sic] PATS as well. But this is another area where an inspector....

15 THE COURT: It's not - but it's not before me now.

ROBERT TY: Mmhmm.

THE COURT: There's no, say, obvious misfeasance by the board at this point.

ROBERT TY: Mmhmm.

20 THE COURT: They're not waiving and saying we don't want the warranties, take a hike. So, that's not a grounds for dismissing the board.

25 ROBERT TY: Mmhmm. There was one document that I wanted to - it's related to the CCIPOR. It was basically a form that was submitted by Claridge Homes related to the turnover of documents between the original developer and the new board of directors. Claridge Homes had submitted that document, however, they submitted it without the

30 signatures and without, essentially, consulting the new board of directors and I was a member of the board at that time. I'm just looking for my reference here.

THE COURT: I'm sorry, and you - you say, what? What do you say should've happened or should happen?

ROBERT TY: It's - it's basically related to

whether or not the condo corporation assured that we received all of the turnover documents required from the condominium corporation. And based off my investigation, we did not. And I did challenge Mr. Baptiste (ph), the president of the condo at his cross-examination, and he wasn't able to explain why certain items were actually missing from the so-called list of....

THE COURT: What items are you looking for?

ROBERT TY: I'm just looking for my reference.

THE COURT: Then I'll ask Ms. Allen, where are they? If those documents are relevant or are they missing or some.

C. ALLEN: So.

THE COURT: What are they, first of all. Do you have - have you written to someone to say, look, we should have, I don't know. What are we talking - contract documents? Or...

C. ALLEN: So.

THE COURT: ...details, engineering plans, I don't know.

C. ALLEN: Yes. So, these documents are all part of the documents that do get turned over...

THE COURT: Right.

C. ALLEN: ...and were turned over in this case.

THE COURT: Right.

C. ALLEN: There's a list of documents that were received by the board.

THE COURT: RIGHT.

C. ALLEN: The board signed off on having received those documents...

THE COURT: Yes.

C. ALLEN: ...at the turnover meeting. So, that was all, sort of, normal. And....

THE COURT: And he's saying some are missing.

C. ALLEN: I don't know what he's saying is missing. But....

THE COURT: That's what - that's what I'm asking.

C. ALLEN: Yes.

THE COURT: I'm asking him, and I said I was going to come to you next...

C. ALLEN: Yes. Just to give him a little time....

THE COURT: ...to say, okay, if this is missing should it be included? If not, why is it....

C. ALLEN: In so far as this relates to his complaints about Tarion.

THE COURT: Well, Tarion is not before me at this point. There's no abandoning of the Tarion....

C. ALLEN: No. There's not. There's not. I know that Mr. Ty has had a complaint about the fact that it's a specific form was signed by someone that it shouldn't have been signed by, but it has nothing to do with the claims or the preservation of the claims.

THE COURT: So, I don't - don't see Tarion as an issue that's risen yet. I don't have evidence of any failure by the board to act on warranty items with Tarion.

ROBERT TY: Mmhmm. So, the document I was referring to is A - it's on - you can find it on A5091. And in terms of the turnover requirement, I highlighted the areas where, at least, I believe there's deficiency - there could be a deficiency in others, but again, we'd have to actually investigate to

5 ensure that all of the turnover documents were received. For example, in this blank space, all existing plans for underground site services, site grade and drainage, etcetera, it's not clear to me that we actually received any documents related to turnover. And these squiggly lines where it says, "receipt acknowledged by", this is apparently the signature of one of the executives of Claridge Homes. I believe this is Sean Malhotra's (ph) 10 signature. In other words, the receipt was acknowledged not by someone from our board of directors after the turnover of the condo, but by the executive of the Claridge Homes that had prepared before.

15 THE COURT: So, Ms. Allen, what - which ones are missing?

C. ALLEN: So, I don't know whose signature that is...

THE COURT: Yes.

20 C. ALLEN: ...If it's Sean Malhotra's (ph), I have no idea. This is...

ROBERT TY: So, this....

C. ALLEN: ...Mr. Ty's evidence on - on this.

25 ROBERT TY: While the shared facilities agreement has that same....

THE COURT: So, let's assume it's Mr. Malhotra's signature, but.

30 C. ALLEN: Yes. So, this document - like, who signed what here - this isn't a prescribed form, this is a tool that presumably was used by Claridge at the time of turnover to track what they say they were turning over to the condominium corporation. I

can see, because it's legible, Evan Lloyd has signed off on the documents here.

THE COURT: We have the guy. We have him right here.

C. ALLEN: We have the guy right here. He's confirming by signing this specific document here that...

THE COURT: That he's received them...

C. ALLEN: ...he's received them.

THE COURT: ...as-built architectural drawings, structural drawings, blah, blah, blah.

C. ALLEN: Yes. But why Sean (ph) signed this and what he was confirming and who he's confirming for - like, he wouldn't obviously have been signing on behalf of...

THE COURT: So, the existing...

C. ALLEN: ...the condominium corporation.

THE COURT: ...the other one is the existing warranties and guarantees for all equipment. So, were those received? Maybe - maybe he knows? Mr. Lloyd knows. They weren't signed for by him.

EVAN LLOYD: From my recollection, yes, they were.

THE COURT: They were all signed - all given to you?

EVAN LLOYD: Correct. And then provided to the board.

THE COURT: Okay. So, which ones are not - are missing? I guess there's one box that's got a blank. Plans for underground site, it's not signed off on.

C. ALLEN: No. And that may mean that it wasn't received.

THE COURT: Okay.

5 C. ALLEN: It may mean that it was received later because these are actually documents that are not required to be turned over at the meeting, but within 30 days following the meeting. So, they may have just been provided after. We don't know. But in any event, the condominium is the recipient of documents from the declarant. It's not the creator, it doesn't...

10 THE COURT: No.

15 C. ALLEN: ...have the ability to force the turnover of these documents. And so, what exactly this document is - is evidence of, I don't think there's any clarity on that other than there were some documents that are acknowledged to have been received. But it - yes. As I said, it's possible the others that are not signed for were later turned over. And if they weren't, it's not the condominium corporation's failing, that that - that that wasn't turned over. That's the declarant's failure. But it's not the condominium's failure.

20 THE COURT: No. But, it would be up to the condominium corporation to obtain their plans for landscaping...

25 C. ALLEN: Yes. But they....

THE COURT: ...and various other - the condo corp should have those plans.

C. ALLEN: Yes. If they exist, then they - the condominium corporation should have them...

30 THE COURT: Should have them.

C. ALLEN: ...and, you know, they - they - they - if they don't, they can take certain actions

against the developer if it makes sense in the circumstances to do so, which is something the board would determine based on a number of factors.

THE COURT: Right. So, they may have them? So, the - this is not a question that you have, it's to whether or not whether or not they have received the underground site services plans, grading, site grading, and landscaping. So, maybe the best thing is to put your questions and send them maybe to Ms. Allen. See if she can bring them to the board, send them to the new property manager, and/or the appropriate person.

C. ALLEN: Yes. I mean, it's an option, there are avenues available to unit owners under the *Condominium Act* to gain access to information. So - and Mr. Ty is very familiar with these because he resorts to them frequently.

THE COURT: So, maybe that - well I'd start with the letter. A list of your questions. Mr. Keller, I got the wrong generator, did he forget one, or is it 100 percent, 50 percent.

C. ALLEN: Yes. On the shared facilities agreement, that's a more complex analysis...

THE COURT: Yes.

C. ALLEN: ...because this is a complex building with complex building systems, so the exercise of going through to determine, you know, what is there, what is shared, what is shared in reality...

THE COURT: Right.

C. ALLEN: ...is - it takes time. And it requires engineers from multiple disciplines...

THE COURT: Right.

5 C. ALLEN: ...because there's mechanical,
electrical, structural, a number of different
areas, so, that's a complex exercise. That is
underway, and presumably from that certain records
will be generated, including engineering reports,
all of which Mr. Ty, as a unit owner, would be
entitled to access to, once they're generated. But
the dealings, like the idea of a condominium
corporation and the way it operates, it's the board
10 that deals with its manager and all these, you
know, engineers or lawyers or whoever it is, in
figuring out what is required, they do what they're
supposed to do, they generate records, unit owners
are entitled to those records, they're also
15 entitled to the audited financial statements that
are done every year to make sure that the
condominium corporation is not misappropriating
funds or misrepresenting where the funds are going.
And that's the case in the - in this example as
20 well. So, there's a number of different....

THE COURT: Well, I'm suggesting a way, if you
can't - it might be the simplest way without having
to go through your unit process, however it is, is
to write a letter to - well, you're here, and
25 there's....

C. ALLEN: Yeah. And I'm open....

THE COURT: I know you don't...

C. ALLEN: ...to - to that...

THE COURT: ...want the...

30 C. ALLEN: ...It's just that the...

THE COURT: ...and there's legal costs get...

C. ALLEN: ...there is a....

THE COURT: ...get added and, you know, they're often allocated to the unit holder who's - perhaps unsuccessful. And those run up.

5 C. ALLEN: Well, that's - this - and this is the concern....

THE COURT: Okay. Maybe send them to your - questions to the property - the current property manager.

10 ROBERT TY: Your Honour, I'll point out that one of the reasons why I had to bring this court application forward is because of the lack of response from both the board of directors and the property manager. So, in the case of the issues that I had with the first-year reserve fund study, 15 the property manager received a copy of the email I sent to Keller Manager [sic], received the list of issues I had, but never provided me either response from themselves or from the board of directors regarding answers to my questions or why they 20 approved it in the first place, and why they would incorporate that reserve fund study as part of their planning for increases in the common expense fees for the short-term years in the future. It's because of the non-response that I had to bring this forward. 25

THE COURT: Okay. Well, you're - I'm simply practically suggesting a way other than coming to court - this is, as I said earlier, it's an - can be very expensive proposition. There's got to be another way to put your questions in writing. You 30 have raised some reasonable points, some of which are being dealt with by the board, some may require

5 some research, the question of the generator in the other building. Is it one generator? You say it's a mistake, but you don't know if that's true or not because you haven't hired an engineer to go check his report or Keller's going to say I don't respond to you, I respond to - to the board and maybe the property manager, so.

10 C. ALLEN: Yes. And - and again, on that point, the condominium is dealing with that. Like, it's initiated a court application...

THE COURT: Right.

C. ALLEN: ...to challenge this...

THE COURT: Right.

15 C. ALLEN: ...it's hired an engineer to review what is shared, what is not. So, this is all being dealt with...

THE COURT: Yes.

C. ALLEN: ...by the board...

THE COURT: The generator...

20 C. ALLEN: ...They're not sitting....

THE COURT: ...should be looked into.

C. ALLEN: Absolutely.

THE COURT: That's....

25 C. ALLEN: And there's some other elements that need to be looked into as well.

THE COURT: Right.

30 C. ALLEN: But these are - these are - you know, as - as Your Honour has pointed out, the board members are unit owners as well. They don't want to be paying \$560,000 [sic] for a generator that they don't get the benefit of. And that's what the court application is there for. That they've initiated to

challenge the shared facilities agreement. So, that is all being managed by the condominium. There are some issues - or, I guess, concerns, I would express with respect to communications with Mr. Ty. Because there's a history here, in terms of communications that are harassing in nature, and they tend to escalate. Mr. Ty has, in addition to this application, initiated several other proceedings, including complaints against the engineer. So, the engineer's refusing to deal with Mr. Ty because he has initiated a complaint with their professional licencing organization. He's done the same to myself with the Law Society of Ontario, he's done the same to Mr. Lloyd with the condominium management regulatory authority, which issues licences for condominium managers. So, he basically collaterally attacks the people he doesn't agree with and then insists on, you know, making demands and asking questions of them when they're frightened to say anything because they then - there's ongoing complaints that he's initiated. He's gone to the employer...

THE COURT: Okay. Well, let's - so, you reap what you sow, to some extent, Mr. Ty.

ROBERT TY: Your Honour, first of all, I disagree with the respondent's claims that my communications has been harassing in nature or even defamatory, as they've stated in almost eight legal letters that they've sent to me for - within the past couple years. And if they believe so strongly that my behaviour was actually defamatory or harassment, they've actually failed to bring any complaint

against me, either through a defamation claim or through even a complaint with....

5 THE COURT: They don't want to have court cases and claims. That's a - it's a very - it incurs a lot of expenses. I think I - this is my third mention of these things and you're much better to have a cooperative, respectful, communication. I can't, I'm not going to force that here at this hearing, but - anything else that you have?

10 ROBERT TY: So, regarding the - the - the position that the respondents say that they have initiated a court claim or court application against Claridge Homes to challenge the current shared facilities agreement, I will note that in their court application, that they also stated that the
15 existing shared facilities agreement is oppressive against the condominium. They've already agreed with me on that point. However, where I disagree with them is the fact that it has been almost one
20 year since the condominium corporation has submitted their court application, but they have failed to request a hearing for that.

25 THE COURT: Well, you know, that - legal cases go on for some time. Negotiating, settlement conferences or pretrials, mediation, if you're pursuing that. And if you're getting cooperative responses from the developer, well, it's much cheaper to do it that way than to go by court.

30 ROBERT TY: Your Honour, it has been almost one year, again, since....

THE COURT: Okay. I take your point; there's a delay in proceeding with the - but that's not

sufficient grounds - a one-year delay to remove a board of directors.

ROBERT TY: All right. So, Your Honour....

THE COURT: That's - that's - that's your - those are the complaints?

ROBERT TY: I'll reiterate, Your Honour, that - that the purpose of this court application was, originally, to request a administrator and/or inspector for the condominium - for our condominium to be appointed by the Court. I did, after a situation involving the respondents regarding the scheduling of virtual cross-examinations and then cancelling them. I did also add in a request for an order in my factum, to request financial compensation regarding, basically, abuses of process by the responding - respondents, where they unilaterally cancelled, at the very last minute, and without providing a proper notice, virtual cross-examination sessions which were scheduled for January of this year that they had scheduled back in September of the previous year, and then cancelled the day before. And they didn't even provide me with notice of my own cancellation of my own cross-examination. And due to the issues related to lost wages, for example, I had to take some days off of work to be present at these planned cross-examination sessions.

THE COURT: What are you claiming? How much money are you seeking? You're - I'm going to come to costs, maybe I'll hear Ms. Allen, but I'll hear you first. What are you seeking for costs?

ROBERT TY: Only for that specific incident, two

days of, basically....

THE COURT: If you're successful on your application.

ROBERT TY: Ah. Yes. Well....

THE COURT: You're saying - You say irregardless, you want to be compensated. How much?

ROBERT TY: Taking into account my annual salary, about \$1,000.

THE COURT: \$1,000? Okay. And what do you say, Ms. Allen? In terms of costs if you're successful.

C. ALLEN: Actually, Ms. Messina is going to provide the submissions on costs.

D. MESSINA: Thanks, Your Honour. So, the respondents, if they are the successful parties, are seeking their costs of responding to this application on equal indemnity basis or at least substantial indemnity. To be - just to explain for Mr. Ty's benefit, the Court's discretion to - with respect to costs is guided by rule 57.01 of the *Rules of Civil Procedure*, which includes a non-exhaustive list of factors that the Court considers when deciding costs. And the respondents submit that the most relevant factors there would be the complexity of the proceeding, the importance of the issues, as well as whether the - any step of the proceeding or the entire proceeding is vexatious, unnecessary, or improper. And I can briefly address those factors for....

THE COURT: How much money are you seeking? I'm going to cut...

D. MESSINA: Oh, we are seeking...

THE COURT: ...cut to the - as you can....

D. MESSINA: ...sorry, Your Honour, we are seeking - we have our costs outlined on Case Centre at page B21377. And we are seeking \$62,810.87 for equal indemnity.

THE COURT: That is full indemnity. So, what I was saying earlier about the expensive nature of these proceedings. And in the *Condominium Act*, the board is entitled - the condominium corporation is entitled to substantial indemnity costs. Is there not a provision in the actual *Condominium Act*?

C. ALLEN: There's not, Your Honour. So, there are....

THE COURT: There's not?

C. ALLEN: There are provisions that permit for that in certain contexts.

THE COURT: Okay. That's when people don't pay their shares...

C. ALLEN: Yes.

THE COURT: ...of the - of common expenses.

C. ALLEN: Yes.

THE COURT: There's similar type of - well, it's not the same proceeding, so.

C. ALLEN: Yes.

THE COURT: That's only to that section.

C. ALLEN: That's to that. And then there's another section with compliance orders, but within this context....

THE COURT: What - what're - what're your partial indemnity costs?

D. MESSINA: Your Honour, they're 56,928....

THE COURT: 56,000? That's - that's....

D. MESSINA: Sorry, \$38,698.

THE COURT: That's more like it.

D. MESSINA: Thirty-nine....

THE COURT: Because it's...

D. MESSINA: Sorry.

THE COURT: ...usually 60 percent....

D. MESSINA: Apologies, Your Honour.

THE COURT: 38,000?

D. MESSINA: Yes. 698 and 39 cents.

THE COURT: Okay. And the 62,000 is your full indemnity?

D. MESSINA: Apologies, Your Honour, that includes the disbursements as well.

THE COURT: Correct. That's....

D. MESSINA: Full indemnity.

THE COURT: ...full indemnity?

D. MESSINA: Yes.

THE COURT: And yes. Substantial indemnity, do you have one of those or is that.

D. MESSINA: Yes. \$56,928.03.

THE COURT: Okay. Okay. You want to say anything else? I've dealt with....

C. ALLEN: Yes. I think - I think we've said what needed to say. I just wanted to make an additional point on costs that there are - as I mentioned, there have been a number of proceedings initiated by Mr. Ty against the condominium, its individual directors, including going to their employers to make defamatory allegations against these individuals to their employers. It's in the materials. As well as the complaints to their service providers, to their licencing bodies, media, politicians, the list is endless and it's

5 going to continue to be endless. And I guess, what
I would suggest to Your Honour, is that costs may
send a message in this case that may be warranted.
Because I don't think that this ongoing litigation
in every context is going to stop unless there's
some message sent. And so far, there hasn't been,
because the context in which he's - in which Mr. Ty
has brought his proceedings and applications, there
are - there's no ability to award costs. This is
10 the only - actually, that's not all together true,
because he did sue the former superintendent in
Small Claims Court and that claim was dismissed and
he was ordered to pay \$2,000 in costs in relation
to that claim, but a stronger message may be
15 warranted in this case is what I would submit, Your
Honour.

THE COURT: Thank you. Do you have any reply?

ROBERT TY: Your Honour, I would submit, again,
that regarding the defamation and harassment
20 claims, they have not demonstrated any of that to
you, Your Honour, today. They claim that they have
it in their materials....

THE COURT: No. I don't think I'm finding that
there's a claim of defamation or harassment that
I'm dealing with. I'm dealing with your motion and
they're going to say that it shouldn't be awarded
because you don't meet the test of misfeasance
25 sufficiently. I'll look at the law, see what the
exact wording of the test is, but I'm not thinking
you meet the test...
30

ROBERT TY: Mmhmm.

THE COURT: ...as you can tell from the responses

that they've given.

ROBERT TY: I understand, Your Honour, so all - all I'll mention is that, again, I do not - what they characterize as defamation I simply characterize....

THE COURT: Well - well, I'm not going to be finding defamation...

ROBERT TY: Okay.

THE COURT: ...or harassment...

ROBERT TY: Okay.

THE COURT: ...I don't have the evidence...

ROBERT TY: All right.

THE COURT: ...I'm not saying that it's not possible.

ROBERT TY: In - in - in terms of their request for full indemnity, I will say, Your Honour, that I disagree with the respondents' notion that I brought this as - this case as a frivolous or vexatious case against the condominium corporation. And I believe at today's court application, Your Honour, I presented several examples of areas that are extremely questionable in terms of costs that have been allocated to the condominium that should have been allocated to the Claridge Homes or Claridge Albert itself. So, in that sense itself, in the absence of receiving responses from either property management or the condominium corporation board of directors, that I felt that this was a necessary step in order to shine additional light on the issues that I'm raising. And - And I'll leave it at that, Your Honour.

THE COURT: Okay. Thank you. Okay. Well, I'll give

you a decision as soon as I can and thank you for
your submissions.

M A T T E R A D J O U R N E D

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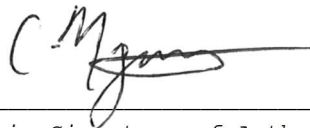
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FORM 3
ELECTRONIC CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))
Evidence Act

I, Cathy Nguyen, certify that this document is a true and accurate transcript of the recording of Ty v. OCSCC 1106 et al., in the Superior Court of Justice, held at 161 Elgin Street, Ottawa,
5 on Thursday, April 9th, 2026, taken from Recording No. 0411_CR24_20260409_105022__10_SMITHROBE, which has been certified in Form 1.

May 9, 2026

(Date)



(Electronic Signature of Authorized Person)

ACT No. 7857003889

(Authorized court transcriptionist's identification number - if applicable)

Ontario, Canada.

(Province of signing)

A certificate in Form 3 is admissible in evidence and is proof, in the absence of evidence to the contrary, that the transcript is a transcript of the certified recording of evidence and proceedings in the proceeding that is identified in the certificate.